CONFERENCE ON DISARMAMENT

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The consequences of an entry into force of the Chemical Weapons Convention without the United States of America and the Russian Federation

Background

The Chemical Weapons Convention enters into force following the deposit of the 65th instrument of ratification. At this date, 58 instruments have already been deposited. A number of other signatories are finalising their ratification process. With the current pace it is expected that the countdown on Entry Into Force may commence as early as next month. At the same time prospects for ratification by the United States of America and the Russian Federation, the two declared possessors of chemical weapons, prior to Phase II trigger point remain desperately dim. This raises serious concerns about the fate of the Convention and entails major political and practical consequences.

Implications

a. Conceptual and political

1. The title, objective and purpose as well as the content of the Convention include destruction of chemical weapons. Destruction is comprehensive and must be carried out under the Convention's verification procedures. An Entry Into Force without the two major declared CW possessors renders this major issue irrelevant.

2. Prohibition of use of chemical weapons under the Convention is absolute. The objective of the Convention includes a commitment by the States Parties not to use chemical weapons and not to engage in any preparations for use of chemical weapons under any circumstances. Agreement on this was essential for the Convention as it broke a long-standing deadlock in negotiations. With an Entry Into Force that excludes the two declared CW possessors the whole concept of USE will become wide-open.

3. Universal adherence has been the underlying theme throughout negotiations and beyond. It has been stressed by all signatories including the United States of America and the former USSR and reiterated in the first and the only resolution of the General Assembly following the conclusion of the

Convention. If the two major CW possessors remain on the sidelines, others are likely to follow. An Entry Into Force minus the United States of America and the Russian Federation makes universality meaningless.

b. Practical and Procedural

1. Nearly all Articles in the Convention will either entirely or partially be affected if the United States of America and the Russian Federation do not accede well ahead of the time of Entry Into Force. Provisions on organisation, declaration and destruction of chemical weapons and their facilities as well as challenge inspection and their respected procedures in the Protocol along with sanctions will be severely compromised. At least one-third of the Convention exclusively deals with issues that require engagement of these two states, while the rest also involves them directly or indirectly.

2. All preparations so far by the Preparatory Commission and the Provisional Technical Secretariat have been made under the assumption that the Entry Into Force will include the United States of America and the Russian Federation. Formulation of detailed procedures and preparations of inspection manuals regarding the CW and CW destruction facilities, determining the very important issue of order of destruction, approved equipment and the training of the future inspectors are few examples.

3. One pressing question is the budget of the Organisation. The cost of the operationalisation of the Convention, personnel requirements, the number of inspectors and their training as well as procurement and type of equipment and other facilities depend substantially on whether the United States of America and the Russian Federation are included in the Entry Into Force. It is extremely difficult for states to make financial commitments while this serious uncertainty prevails.

4. According to the scale of assessment, one-third of the budget is committed by these two states. This covers part of the cost of implementation of the Convention related to them. It is hard to perceive that other states would assume payment of these contributions without substantive modifications and reductions in the budget and administration. Nearly the whole programme under Phase II will then have to be reconsidered.

Conclusion

The Chemical Weapons Convention will be decisively undermined if the United States of America and the Russian Federation do not accede well in advance of the Entry Into Force. The fundamental concept of the Convention will thence be jeopardised. A universal and verifiable treaty intended to eradicate a whole class of weapons of mass destruction will change its essence.

The Convention banning development, production, stockpiling and use of chemical weapons and arranging for their destruction becomes a chemical weapons non-proliferation treaty. This raises major security concerns and gives rise to significant political questions.

The objectives, the undertakings and many provisions of the Convention and its protocol related to implementation become altered. Preparations may also be paralysed in the face of two extremely different scenarios.

The CWC has no formula to allow its own metamorphosis. Urgent consideration and action is hence required.

Proposal

Convene a high level conference of the signatories to address the issue of the Entry Into Force and its implications on the Convention in terms of its preparation and implementation. The Conference may particularly consider the following:

i) to coordinate efforts to encourage ratification by the United States of America and the Russian Federation;

ii) to examine ways and means of regulating the Entry Into Force in order to accommodate a delayed accession by the United States of America and the Russian Federation; and

iii) to examine issues related to preparations and implementation under various scenarios.

Date and Venue

The conference will have to be convened, to the extent possible, prior to the submission of the 65th instrument of ratification. With the estimate of the Executive Secretary, the date will have to be set before September 1996.

The venue may be The Hague as the seat of the Preparatory Commission and OPCW, Paris where the Convention was opened for signature, Geneva where the Convention was concluded or any other city that is agreed.